

## Message Text

LIMITED OFFICIAL USE

PAGE 01 BONN 04239 01 OF 02 122033Z

73

ACTION L-03

INFO OCT-01 EUR-12 ISO-00 OC-05 CCO-00 EB-07 PM-04 INR-07

OPR-02 A-01 PRS-01 /043 W

----- 116330

R 121735Z MAR 76

FM AMEMBASSY BONN

TO SECSTATE WASHDC 7209

LIMITED OFFICIAL USE SECTION 01 OF 02 BONN 04239

STATE FOR A/OC PANCAMO, EUR/EX BASKEY, L/PM - MICHEL  
BOREK

STADIS////////////////////////////////////

E.O. 11652: N/A

TAGS: AFSP, ACOM, GW

SUBJECT: USE OF APO FACILITIES FOR MAILINGS TO  
GERMAN ADDRESSEES BY NON-DOD USG AGENCIES AND  
PERSONNEL IN FRG

REF: BONN 8442 (MARCH 4, 1975)

SUMMARY: IN VIEW OF MID-1975 INQUIRY BY FRG FONOFF  
CONCERNING LEGAL BASIS FOR SUBJECT PRACTICE AND  
APPARENT LACK OF LEGAL BASIS FOR USG CIVILIAN  
AGENCIES IN THE FRG TO BENEFIT FROM APO-FRG PTT  
AGREEMENT ON SUCH MAILINGSS, EMBASSY WILL ORDER  
DISCONTINUANCE OF THIS NEW PRACTICE IN MID-APRIL  
UNLESS OTHERWISE INSTRUCTED BY DEPARTMENT.  
END SUMMARY

1. IN MID-JUNE 1975, FONOFF REP (CONRAD, LEGAL  
SECTION) SPOKE TO EMBASSY ADMINISTRATION COUNSELOR  
AND LEGAL ADVISER REFERRING TO CONCERN OF FRG POSTAL  
AUTHORITIES AT PRACTICE REFLECTED IN EMBASSY ADMIN-  
ISTRATIVE MEMO (NO. 44 REV. OF JANUARY 29, 1975).

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 BONN 04239 01 OF 02 122033Z

THAT MEMO UNDERLAY LETTER FROM FRG PTT MINISTRY

RECEIVED BY US POSTAL SERVICE FEBRUARY , 1975  
CONTAINED IN STATE 48336 OF MARCH 4, 1975. CONRAD  
STATED THAT HE HAD EXAMINED RELEVANT TREATIES,  
ADENAUER LETTER, AND SUPPLEMENTARY AGREEMENT (SA) TO  
NATO SOFA AND COULD FIND NO LEGAL BASIS FOR USE BY  
EMBASSY AND OTHER CIVILIAN USG AGENCIES AND INSTRU-  
MENTALITIES IN FRG, AND THEIR INDIVIDUAL EMPLOYEES,  
OF APO FOR MAILING TO CIVILIAN ADDRESSEES IN FRG.  
HE STATED FURTHER THAT HE HAD NOT FOUND LEGAL BASIS  
FOR USE BY SUCH AGENCIES AND CIVILIAN USG EMPLOYEES  
OF APO FOR MAILING TO ADDRESSEES WITHIN APO SYSTEM  
AND IN THE USA. HE ASKED THAT EMBASSY FURNISH HIM  
WITH EXPLANATION OF LEGAL BASIS FOR PRACTICE REFERRED  
TO IN EMBASSY ADMINISTRATIVE MEMO.

2. AT ABOVE MEETING, EMBASSY OFFICERS STATED THEY  
WOULD LOOK INTO THIS QUESTION AND REPORT BACK TO  
THE FONOFF. THEY SAID, HOWEVER, THAT THEY ASSUMED  
REAL CONCERN OF FONOFF AND FRG POSTAL SERVICES  
WAS NEW PRACTICE INITIATED IN EARLY 1975, AND NOT SO  
MUCH AVAILABILITY OF APO FACILITY TO EMBASSY,  
CONSULATES, OTHER US CIVILIAN INSTRUMENTALITIES IN  
FRG AND THEIR INDIVIDUAL EMPLOYEES FOR MAILINGS WITHIN  
APO SYSTEM AND TO USA. SUCH USE OF APO WAS LONG-  
STANDING PRACTICE GOING BACK TO US OCCUPATION. THEY  
UNDERTOOK TO EXAMINE THE OTHER QUESTION AND RESPOND  
TO FRG INQUIRY IN DUE COURSE.

3. EMBASSY HAS NOW EXAMINED MORE THOROUGHLY THAN WAS  
POSSIBLE IN CONNECTION WITH IMMEDIATE REFTEL RESPONSE  
TO STATE 48336 OF MARCH 4, 1975, THE LEGAL BASIS FOR  
OPERATION IN FRG OF MILITARY POSTAL FACILITY BY NATO  
SENDING STATES AND HAS FOUND NO LEGAL BASIS FOR USE  
OF THESE FACILITIES BY OTHER THAN FORCES, CIVILIAN  
COMPONENT, AND MEMBERS AND DEPENDENTS THEREOF. THUS,  
IT APPEARS THAT THE APO/FRG PTT ARRANGEMENT FOR APO  
PATRONS TO USE APO FOR MAILING TO GERMAN ADDRESSEES  
CANNOT CONVINCINGLY BE ARGUED TO PROVIDE BASIS FOR  
NON-MILITARY US AGENCIES IN FRG AND THEIR INDIVID-  
UAL EMPLOYEES TO USE APO FOR MAILING TO GERMAN  
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 BONN 04239 01 OF 02 122033Z

ADDRESSEES.

5. ABOVE CONCLUSION IS BASED ON FOLLOWING REASONING:

A) CONVENTION ON RIGHTS AND OBLIGATIONS OF FOREIGN  
FORCES AND THEIR MEMBERS IN THE FRG (CONVENTION)  
PROVIDES ONLY IN ARTICLE 18 FOR ESTABLISHMENT AND  
OPERATION OF MILITARY POST OFFICES.

B) ADENAUER LETTER OF OCTOBER 23, 1954 IN PARA 7

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 BONN 04239 02 OF 02 122038Z

73

ACTION L-03

INFO OCT-01 EUR-12 ISO-00 OC-05 CCO-00 EB-07 PM-04 INR-07

OPR-02 A-01 PRS-01 /043 W

----- 116408

R 121735Z MAR 76

FM AMEMBASSY BONN

TO SECSTATE WASHDC 7210

LIMITED OFFICIAL USE SECTION 02 OF 02 BONN 04239

PROVIDES THAT PERSONNEL OF US EMBASSIES AND CONSULATES (NOT GERMAN NATIONALS) ARE TO BE ENTITLED TO USE FACILITIES OF NON-GERMAN ORGANIZATIONS ESTABLISHED BY FORCES PURSUANT TO ARTICLE 36 OF THE CONVENTION (DEALING WITH NON-GERMAN COMMERCIAL AND NON-COMMERCIAL ENTERPRISES AND, IN PRACTICE, NON-APPROPRIATED-FUND ACTIVITIES AND POSSIBLY ADDITIONAL FACILITIES, AND WITH MILITARY POSTAL FACILITIES).

C) SUCCESSORS TO ARTICLE 36 OF CONVENTION ARE ARTICLE 71 (NON-GERMAN, NON-COMMERCIAL ORGANIZATIONS) AND ARTICLE 72 (NON-GERMAN COMMERCIAL ENTERPRISES), AS WELL AS RE ARTICLE 1(1)(A) OF PART I OF PROTOCOL OF SIGNATURE TO SA NATO SOFA. NONE OF THESE DEAL WITH MILITARY POSTAL FACILITIES, WHICH ARE COVERED BY ARTICLE 59 OF SA TO THE NATO SOFA.

D) ARTICLE 59 OF SA PROVIDES NO AUTHORITY FOR EMBASSY OR OTHER CIVILIAN USG EMPLOYEES TO USE MILITARY POSTAL SERVICES.

E) THUS, LANGUAGE OF ARTICLE 7 OF ADENAUER LETTER

WITH RESPECT TO PROVISIONS SIMILAR TO ARTICLE 36  
OF CONVENTION IN AGREEMENTS SUPERCEDING CONVENTION  
DOES NOT PROVIDE LEGAL BASIS FOR CIVILIAN USG AGENCIES  
AND THEIR PERSONNEL IN FRG TO USE APO.  
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 BONN 04239 02 OF 02 122038Z

F) EMBASSY INFORMALLY UNDERSTANDS THAT USAREUR/JAG  
SHARES EMBASSY VIEW EXPRESSED ABOVE, AND USAREUR WAS  
AT LEAST INITIALLY RELUCTANT TO PERMIT CIVILIAN USG  
AGENCIES AND PERSONNEL TO MAKE USE OF APO AGREEMENT  
WITH FRG POSTAL AUTHORITIES FOR MAILINGS TO GERMAN  
ADDRESSEES.

6. IN LIGHT OF GERMAN INFORMAL INQUIRY, REPEATED  
INFORMALLY SEVERAL TIMES SINCE JUNE 1975, ABOVE ANALY-  
SIS, AND INDICATION FROM FONOFF THAT FRG POSTAL  
AUTHORITIES HAVE CALCULATED THAT THEY ARE LOSING  
ALMOST DM 100,000 ANNUALLY ALONE THROUGH DIVERSION OF  
EMBASSY MAIL FOR GERMAN ADDRESSEES FROM FRG TO APO  
POSTAL FACILITIES, EMBASSY BELIEVES THAT PRACTICE  
INITIATED EARLY 1975 SHOULD BE DISCONTINUED WITH  
INFORMAL NOTIFICATION BEING MADE TO FRG FONOFF.  
THIS COURSE OF ACTION ALSO SEEMS JUSTIFIED BY LIKELIHOOD  
THAT ATTEMPT VIS-A-VIS FONOFF LEGALLY TO JUSTIFY  
PRACTICE WOULD JEOPARDIZE OTHER LONG-STANDING ACCESS  
OF EMBASSY AND OTHER US PERSONNEL TO MILITARY FACIL-  
ITIES (COMMISSARIES, TELECOMMUNICATIONS, ETC), WHICH  
DO NOT APPEAR TO HAVE BEEN COVERED BY LANGUAGE OF, OR  
PRACTICES UNDER ARTICLE 36 OF CONVENTION.

7. IN ABSENCE OF LEGAL BASIS FOR INSISTING ON  
CONTINUING NEW PRACTICE, ANY EMBASSY REQUEST THAT  
FONOFF SUPPORT EMBASSY REQUEST FOR PERMISSION TO  
CONTINUE PRACTICE BECAUSE OF ITS SAVINGS FOR USG,  
WOULD AMOUNT TO REQUESTING FRG TO PROVIDE SERVICE AND  
FOREGO REVENUES IN PAYMENT THEREFOR IN ORDER TO  
SAVE USG EQUIVALENT EXPENSES. EMBASSY BELIEVES IT IS  
VERY UNLIKELY THAT FONOFF COULD AGREE TO SUPPORT SUCH  
A REQUEST AND EVEN MORE UNLIKELY THAT FRG POSTAL  
AUTHORITIES COULD ACCEDE THERETO. MOREOVER, PRESSING  
FOR SUCH A FAVOR MIGHT JEOPARDIZE CONTINUING USE OF  
APO FOR SA ARTICLE 59 PURPOSES BY CIVILIAN USG  
AGENCIES AND THEIR EMPLOYEES IN FRG -- A MATTER EMBASSY  
BELIEVES THE FRG FONOFF WOULD DROP AS ESSENTIALLY AN  
INTER SE MATTER IF PROBLEM CREATED BY PTT REVENUE  
LOSSES UNDER NEW PRACTICE WERE RESOLVED SATISFACTORILY.  
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 BONN 04239 02 OF 02 122038Z

8. ACTION REQUESTED: UNLESS OTHERWISE INSTRUCTED  
BY DEPARTMENT BY COB, APRIL 16, EMBASSY WILL THEREAFTER  
ORDER DISCONTINUANCE BY EMBASSY, CONSULATES AND OTHER  
USG AGENCIES IN FRG AND THEIR EMPLOYEES, OF PRACTICE  
COMMENCED AS OF EARLY 1975, WITH INFORMAL NOTICE  
THEREOF TO FONOFF IN RESPONSE TO FONOFF INFORMAL  
INQUIRY INITIATED MID-JUNE 1975.  
HILLENBRAND

LIMITED OFFICIAL USE

NNN

## Message Attributes

**Automatic Decaptioning:** Z  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** n/a  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 12 MAR 1976  
**Decaption Date:** 28 MAY 2004  
**Decaption Note:** 25 YEAR REVIEW  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** ElyME  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1976BONN04239  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Film Number:** D760094-0729  
**From:** BONN  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1976/newtext/t19760368/aaaachvv.tel  
**Line Count:** 235  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ACTION L  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** STADIS  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 5  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** STADIS  
**Reference:** 76 BONN 8442  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** ElyME  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 27 APR 2004  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <27 APR 2004 by BoyleJA>; APPROVED <18 AUG 2004 by ElyME>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
04 MAY 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** USE OF APO FACILITIES FOR MAILINGS TO GERMAN ADDRESSEES BY NON-DOD USG AGENCIES AND  
**TAGS:** AFSP, ACOM, GE  
**To:** STATE  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006